## UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:17-cv-119-FDW

SEAN SMITH,	)	
Plaintiff,	)	
vs.	)	<u>ORDER</u>
ALLAN KENNEDY, et al.,	)	
Defendants.	)	
	)	

**THIS MATTER** is before the Court on periodic status review.

Plaintiff Sean Smith and four other inmates of the Lanesboro Correctional Institution in Polkton, North Carolina, filed this action pursuant to 42 U.S.C § 1983 on November 7, 2014, alleging that several corrections officers were deliberately indifferent by failing to protect them from violence. The Clerk opened the matter as case number 3:14-cv-625-FDW. Following initial review by the Court, Plaintiff's counsel was instructed to prepare summonses for the named Defendants and submit them to the Clerk of Court for service of process. The Plaintiffs submitted summons forms for service of process on nine Defendants which were returned executed. The served Defendants moved for severance, which was granted on March 10, 2016, and Smith's amended complaint against Defendants Allan Kennedy and FNU McCoy was opened in the instant case.

Review of the dockets in this case and case number 3:14-cv-625-FDW reveals that Plaintiff's counsel never returned a summons for Defendant McCoy, and thus, the U.S. Marshals Service never attempted service on that Defendant.

The Clerk is instructed to mail a summons form for Plaintiff to fill out as to Defendant

FNU McCoy and to return to the Court for service of process by the U.S. Marshals Service. Plaintiff shall have **twenty days** in which to return the summons form to the Court for service on Defendant McCoy. If Plaintiff does not return the summons form to the Court within the time period allotted, Plaintiff's claim against Defendant McCoy will be dismissed without prejudice and without further notice to Plaintiff.

IT IS SO ORDERED.

Signed: July 5, 2017

Frank D. Whitney

Chief United States District Judge